

§ 250.1

SOURCE: 49 FR 48041, Dec. 10, 1984, unless otherwise noted.

§ 250.1 Purpose.

This part establishes policy, prescribes procedures, and assigns responsibilities for the dissemination and withholding of technical data.

§ 250.2 Applicability and scope.

(a) This part applies to:

(1) All unclassified technical data with military or space application in the possession of, or under the control of, a DoD Component which may not be exported lawfully without an approval, authorization, or license under E.O. 12470 or the Arms Export Control Act. However, the application of this part is limited only to such technical data that disclose critical technology with military or space application. The release of other technical data shall be accomplished in accordance with DoD Instruction 5200.21 and DoD 5400.7-R.

(2) The Office of the Secretary of Defense (OSD) and activities support administratively by OSD, the Military Departments, the Organization of the Joint Chiefs of Staff, the Defense Agencies, and the Unified and Specified Commands (hereafter referred to collectively as "DoD Components").

(b) This part does not:

(1) Modify or supplant the regulations promulgated under E.O. 12470 or the Arms Export Control Act governing the export of technical data, that is, 15 CFR part 379 of the Export Administration Regulations (EAR) and 22 CFR part 125 of the International Traffic in Arms Regulations (ITAR).

(2) Introduce any additional controls on the dissemination of technical data by private enterprises or individuals beyond those specified by export control laws and regulations or in contracts or other mutual agreements, including certifications made pursuant to § 250.3(a). Accordingly, the mere fact that the Department of Defense may possess such data does not in itself provide a basis for control of such data pursuant to this part.

(3) Introduce any controls on the dissemination of scientific, educational, or other data that qualify for General License GTDA under 15 CFR 379.3 of the EAR (see § 250.7) or for general ex-

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emptions under 22 CFR 125.11 of the ITAR (see § 250.8).

(4) Alter the responsibilities of DoD Components to protect proprietary data of a private party in which the Department of Defense has "limited rights" or "restricted rights" (as defined in 32 CFR 9-201(c) and 9-601(j) of the DoD Acquisition Regulation, or which are authorized to be withheld from public disclosure under 5 U.S.C. 552(b)(4)).

(5) Pertain to, or affect, the release of technical data by DoD Components to foreign governments, international organizations, or their respective representatives or contractors, pursuant to official agreements or formal arrangements with the U.S. Government, or pursuant to U.S. Government-licensed transactions involving such entities or individuals. In the absence of such U.S. Government-sanctioned relationships, however, this part does apply.

(6) Apply to classified technical data. After declassification, however, dissemination of such data that are within the scope of § 250.2(a)(1) is governed by this part.

§ 250.3 Definitions.

(a) *Qualified U.S. contractor.*¹ A private individual or enterprise (hereinafter described as a "U.S. contractor") that, in accordance with procedures established by the Under Secretary of Defense for Research and Engineering, certifies, as a condition of obtaining export-controlled technical data subject to this Directive from the Department of Defense, that:

(1) The individual who will act as recipient of the export-controlled technical data on behalf of the U.S. contractor is a U.S. citizen or a person admitted lawfully into the United States for permanent residence and is located in the United States.

¹Canadian contractors may be qualified in accordance with this part for technical data that do not require a license for export to Canada under 22 CFR 125.12 of the ITAR and 15 CFR 379.4(d) and 379.5(e) of the EAR submitting an equivalent certification to the U.S. Department of Defense.